

3. Further, Defendant did not call Plaintiff using an “automatic telephone dialing system” as defined by the TCPA, and the calls fall outside the scope of the TCPA because they were not sent in bulk, randomly, or for telemarketing purposes.

4. In further support of this Motion, Defendant relies on the Declaration of David Zitko and Defendant’s supporting Memorandum, filed contemporaneously herewith.

WHEREFORE, Defendant prays the Court for an Order granting summary judgment to Defendant, dismissing this action with prejudice, taxing the costs of this action against Plaintiff, and for such other relief that the Court deems just and proper.

This the 27th day of March 2015.

/s/ D.J. O’Brien III
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send electronic notification of the filing to the following:

Ruth M. Allen
rallen@leberglaw.com
Attorney for Plaintiff

This the 27th day of March 2015.

/s/ D.J. O'Brien III
D.J. O'Brien III